



**COUNTY OF SAN LUIS OBISPO  
DEPARTMENT OF PLANNING AND BUILDING  
STAFF REPORT**

**Tentative Notice of Action**

*Promoting the wise use of land  
Helping build great communities*

<b>MEETING DATE</b> May 1, 2015 <b>LOCAL EFFECTIVE DATE</b> May 15, 2015 <b>APPROX FINAL EFFECTIVE DATE</b> June 5, 2015	<b>CONTACT/PHONE</b> Megan Martin (805) 781-4163 mamartin@co.slo.ca.us	<b>APPLICANT</b> Scott and Rita Longworth	<b>FILE NO.</b> DRC2013-00107
<b>SUBJECT</b> A request by Scott & Rita Longworth for a Minor Use Permit/ Coastal Development Permit to allow for the construction of a new 2,420 square foot single family residence with an attached 565 square foot guesthouse. The project will result in the disturbance of approximately 8,000 square feet on a 0.46 acre parcel. The proposed project is within the Residential Single Family land use category and is located at 292 Madera St, in the community of Los Osos. The site is in the Estero planning area.			
<b>RECOMMENDED ACTION</b> 1. Adopt the Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq. 2. Approve Minor Use Permit DRC2013-00107 based on the findings listed in Exhibit A and the conditions listed in Exhibit B			
<b>ENVIRONMENTAL DETERMINATION</b> The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on March 19, 2015 for this project. Mitigation measures are proposed to address aesthetics, biological resources, hazards/hazardous materials, public services/utilities, transportation/circulation, and water/hydrology, and are included as conditions of approval.			
<b>LAND USE CATEGORY</b> Residential Single Family	<b>COMBINING DESIGNATION</b> Local Coastal Plan Area, CAZ	<b>ASSESSOR PARCEL NUMBER</b> 074-483-036	<b>SUPERVISOR</b> DISTRICT(S): 2
<b>PLANNING AREA STANDARDS:</b> Septic tank requirements, Architectural Review Committee, Limitations of Use, Minimum Floor Area, Driveway Construction, Setbacks, and Height Limitations. Does the project conform to the Land Use Ordinance Standards: Yes - see discussion.			
<b>LAND USE ORDINANCE STANDARDS:</b> Section 23.01.043 – Appeals to the Coastal Commission (Coastal Appealable Zone) Section 23.07.120 – Local Coastal Program Area (LCP) Section 23.04.116 – Required Number of Parking Spaces Does the project conform to the Land Use Ordinance Standards: Yes - see discussion			
<b>FINAL ACTION</b> This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14 calendar day local appeal period after the administrative hearing.  The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.			

EXISTING USES: Vacant Improved Lot, scattered vegetation	
SURROUNDING LAND USE CATEGORIES AND USES: North: Public Facility / Vacant                      East: Residential Suburban / Residence South: Residential Single Family / Residence                      West: Residential Single Family / Residence	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Environmental Health, Building Division, HEAL SLO, Los Osos CSD, Ca. Fish and Wildlife, Coastal Commission, Los Osos Community Advisory Council, Community Liaison Kerry Brown	
TOPOGRAPHY: Mostly level	VEGETATION: Non-native grassland, iceplant
PROPOSED SERVICES: Water supply: Community system / Golden State Water Sewage Disposal: Individual septic system Fire Protection: Cal Fire	ACCEPTANCE DATE: July 25, 2014
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242	

## DISCUSSION

### PROJECT HISTORY

The project site is located within the Cabrillo Estates residential subdivision (D900232D). The majority of lots within Cabrillo Estates have been developed with residences. A few scattered lots have been left undeveloped as part of the approved tract conditions to preserve open space easements and implement vegetation preservation measurements recommended by the EIR.

The applicant for this proposed project completed a Habitat Conservation Plan (HCP) for the Morro Shoulderband Snail (MSS) on February 1, 2012. The U.S. Fish and Wildlife Service evaluated the HCP and authorized the taking (TE70055A) of those Morro shoulderband snails found within the 0.46-acre permit area for a period of up to 10 years in a letter dated January 9, 2013.

### ESTERO PLANNING AREA STANDARDS:

*Residential Single Family, Highland Area – Cabrillo Estates*

#### **On-site Wastewater Disposal**

New development using on-site wastewater disposal systems shall protect coastal water quality and meet the requirements of the California Regional Water Quality Control Board (RWQCB).

*Staff Response: The project site is located in the community of Los Osos. In 1988, the RWQCB imposed a moratorium on new sources of sewage discharge in most of the community of Los Osos. This parcel is not included within the moratorium area.*

*The septic system is conditioned to be evaluated in greater detail to ensure compliance with the Central Coast Basin Plan and all the requirements of the RWQCB.*

### **Architectural Control Committee**

No grading or building permit is to be issued until the applicant has filed with the Planning Department certification that the Architectural Control Committee for Cabrillo Estates, as it then exists and functions: 1) has reviewed pertinent plans and specifications and any applicable land use permit and 2) recommends approval or disapproval of such plans and specifications.

*Staff Response: The proposed project complies with this standard. The Architectural Review Committee approved the Preliminary Architectural Plans on June 10, 2014 (Attachment 4 – Referrals). The applicant, as conditioned, is required to submit to the Planning and Building Department, evidence that the Architectural Review Committee has reviewed and approved the final construction plans prior to issuance of a building permit.*

### **Limitation on Use**

Uses shall be limited to: single family dwellings; mobile homes; residential accessory uses; temporary dwellings; home occupations; schools-preschool to secondary (limited to day care centers), and water wells and impoundments.

*Staff Response: The proposed project complies with this standard because the applicant is proposing a single family dwelling with an attached guesthouse and garage, all allowable uses.*

### **Minimum Floor Area**

The minimum floor area for a single family dwelling or mobile home, excluding garages, carports, porches, patios and basements, is 1200 square feet.

*Staff Response: The proposed project complies with this standard because the applicant is proposing a 2,420 square foot single family residence with a 525 square-foot attached guesthouse.*

### **Driveway Construction**

Each lot or parcel shall be equipped with a concrete driveway measuring at least 9 feet in width and at least 3-1/2 inches thick extending from a concrete approach apron, built in accordance with county Standard Improvement Specifications and Drawings, to the garage door. The driveway is to be in place prior to issuance of an occupancy permit for the residence.

*Staff Response: The proposed project complies with this standard. The driveway is located on the east side of the site. As conditioned, the driveway will be in place prior to issuance of an occupancy permit for the residence.*

### **Setbacks**

Minimum setbacks (feet) for dwellings in Cabrillo estates for front, side, and rear property lines is 25 feet, 5 feet, and 20 feet, respectively.

*Staff Response: The proposed project complies with this standard. The proposed setbacks for front, side, and rear setbacks are: 25, 24 (west), 50 (east), and 20, respectively.*

### **Height Limitation**

The maximum height of all buildings and structures shall be 15 feet above the highest point of the lot when measured to the highest point of the roof.

*Staff Response: The proposed project complies with this standard. The proposed single family dwelling, as conditioned, measures 15 feet from the highest point of the lot when measured to the highest point of the roof, as required by the standard.*

COASTAL ZONE LAND USE ORDINANCE STANDARDS:

**Section 23.01.043 – Appeals to the Coastal Commission (Coastal Appealable Zone)**

The project is appealable to the Coastal Commission because the project is proposed development between the Pacific Ocean and first public road (Los Osos Valley Road.)

**23.07.120 – Local Coastal Program Area (LCP)**

The Local Coastal Program combining designation identifies areas of San Luis Obispo County that are within the California Coastal Zone as determined by the California Coastal Act of 1976. The provisions of this title apply to all unincorporated portions of the county located within the Coastal Zone, and do not apply to any areas outside of the LCP combining designation.

**23.04.116 – Required Number of Parking Spaces**

Residential Uses

USE	PARKING SPACES REQUIRED	PARKING LOT TURNOVER	LOADING BAY INTENSITY
Single-Family Dwellings (Including mobilehomes, on individual lots.)	2 per dwelling	Low	N.A.

*Staff Response: The proposed project includes an attached two-car garage and an attached one-car garage. The proposed project complies with this standard.*

**Section 23.07.170 – Environmentally Sensitive Habitats and Section 23.07.176 – Terrestrial Habitat Protection**

Habitat creation and enhancement. Where the project results in an unavoidable loss (i.e. temporary or permanent conversion) of habitat area, replacement habitat and/or habitat enhancements shall be provided and maintained by the project applicant. Plans for the creation of new habitat, or the enhancement of existing habitat, shall consider the recommendations of the California Coastal Commission, the California Department of Fish and Wildlife and/or U.S. Fish and Wildlife Service. Generally, replacement habitat must be provided at recognized ratios to successfully reestablish the habitat at its previous size, or as is deemed appropriate in the particular biologic assessment(s) for the impacted site. Replacement and/or enhanced habitat, wherever feasible, shall be of the same type as is lost (“same-kind”) and within the same biome (“same-system”), and shall be permanently protected by a deed restriction or conservation easement.

The provisions of Section 23.07.176 – Terrestrial Habitat Protection are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis protection is on the entire ecological community rather than only the identified plant or animal.

*Staff Response for Section 23.07.170 and 23.07.176: The proposed project is located within unmapped Terrestrial Habitat and Environmentally Sensitive Habitat Area (TH/ESHA) due to the presence of Morro shoulderband snail, a federally endangered species.*

*The site supports Morro shoulderband snails and habitat for the Morro shoulderband snail. The applicant has applied for and received a permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, 87 Stat. 884) as amended (Act), from*

*the U.S. Fish and Wildlife Service for incidental take of the federally endangered Morro shoulderband snail. The applicant submitted a Habitat Conservation Plan to minimize and mitigate for impacts to the Morro shoulderband snail that may result from the development of the proposed residence. The Habitat Conservation Plan describes measures that will be implemented by the applicant to minimize and mitigate the impacts of the proposed project on the Morro shoulderband snail and its habitat.*

*A TH/SRA is known as an Environmentally Sensitive Habitat Area (ESHA). Uses proposed within an ESHA are intended to be "resource dependent uses." A single family residence is not a use that is "resource dependent" within this sensitive area. However, the project is an infill project in a previously subdivided area with single family residences developed around it. A single family residence is a principally permitted use in the Residential Single Family land use category; and, by not allowing a single family residence, it could potentially constitute a taking under the 5<sup>th</sup> Amendment of the Constitution. Therefore, allowing a single family residence to be developed on the property is considered to be a reasonable use of land.*

#### COASTAL PLAN POLICIES:

Shoreline Access: N/A

Recreation and Visitor Serving: N/A

Energy and Industrial Development: N/A

Commercial Fishing, Recreational Boating and Port Facilities: N/A

Environmentally Sensitive Habitats: ☒ Policy No(s): 1, 2, 3, 29, 30, and 34

Agriculture: N/A

Public Works: ☒ Policy No(s):1

Coastal Watersheds: ☒ Policy No(s):7, 8

Visual and Scenic Resources: N/A

Hazards: N/A

Archeology: N/A

Air Quality: N/A

***Does the project meet applicable Coastal Plan Policies:*** Yes, as conditioned.

#### COASTAL PLAN POLICY DISCUSSION:

##### ***Environmentally Sensitive Habitats***

Policy 1: Land Uses Within or Adjacent to Environmentally Sensitive Habitats.

New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.

*Staff Response: The proposed project is located within an unmapped Terrestrial Habitat and Environmentally Sensitive Habitat Area. The project site supports a cluster of coastal dune scrub at the center of the lot surrounded by non-native grassland dominated by veldt grass and iceplant. The isolated patch of coastal dune scrub comprises approximately 4,950 square feet or 25 percent of the lot.*

*A MSS survey was conducted by Jones and Stokes in 2001. The survey covered the project site and also part of the flood control basin open area (Lot 41) to the north of the parcel. The*

*species was found throughout the site wherever coastal scrub was present. Shells and live animals were observed from many age classes. Old bleached shells and shell fragments estimated to be at least two years old were found in soil piles near rodent entrances. Two non-listed snail species were also found onsite.*

*Based on the MSS survey, a Habitat Conservation Plan (HCP) was completed and submitted to the U.S. Fish and Wildlife Service for the MSS on February 1, 2012. The U.S. Fish and Wildlife Service evaluated the HCP and MSS survey and authorized the taking (TE70055A) of those MSS found within the 0.46-acre permit area for a period of up to 10 years in a letter dated January 9, 2013.*

*In July 2014, the Los Osos Community Services District completed a MSS Survey for the drainage basin located adjacent to the subject site. The survey focused on the northeastern extent of the basin in an effort to identify the existing conditions on site in order to remove a cluster of eucalyptus trees on site. It was found that the coastal dune scrub community is dense along the northern portion of the parcel (Lot 41) but transitions to ice plant in the central and southern portions (closest to the subject site).*

*The one non-protocol survey and six protocol surveys conducted 2013 and 2014 identified three empty MSS shells in the proposed work area and immediate surroundings. No live MSS were observed. The findings are sufficient to establish that suitable native and non-native MSS habitat occur on the parcel (Lot 41), in the proposed work area, and in neighboring areas (subject site).*

*Development of the single family residence on the project site would remove the 4,950 square feet of coastal scrub and result in approximately 8,000 square feet of site disturbance. The take of MSS anticipated to result from implementation of those actions necessary to implement the proposed project is considered insignificant in terms of the species' overall survival and recovery. The project site is not located in designated critical habitat or an area that is considered important to its recovery, therefore, development of a single family residence on the lot and the implementation of the mitigation measures required lessen the impacts to the identified unmapped ESHA onsite would not significantly disrupt the resource.*

*For further discussion related to "resource dependent" uses, please see Section 23.07.170 and Section 23.07.176 above.*

#### **Policy 2: Permit Requirement.**

As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.

*Staff Response: The proposed project complies with this policy because the project includes the maximum mitigation measures and long-term monitoring to ensure that the project will not result in a significant impact to the sensitive area.*

**Policy 3: Habitat Restoration.** The county or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible. Detailed wetlands restoration criteria are discussed in Policy 11.

*Staff Response: The proposed project includes restoration of damaged habitats (see condition number 13).*

Policy 29: Protection of Terrestrial Habitats. Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site.

*Staff Response: The mitigation measures included as part of the project emphasize the protection of the entire ecological community. The mitigation measures include an in-lieu fee to fund MSS recovery tasks, salvaging of native plant species and re-installation within existing and non-impacted areas located on the site, and those measures to capture and relocate any MSS found during pre-construction or construction activities on site.*

Policy 30: Protection of Native Vegetation. Native trees and plant cover shall be protected wherever possible. Native plants shall be used where vegetation is removed.

*Staff Response: The most sensitive portion of the site supporting native vegetation (coastal scrub) will, as conditioned, be replanted and restored in areas of the site not sited for development.*

Policy 34. Rare and Endangered Species Survey.

The State Department of Fish and Game should continue to identify rare or endangered plant and animal species within the county.

*Staff Response: The mitigation measures included as part of the project identify methods of identifying and capturing any MSS found during pre-construction surveys or during construction activities. These findings will be reported to the State Department of Fish and Game and the U.S. Fish and Wildlife. The applicant will also be required to submit annual reports and a final report to the U.S. Fish and Wildlife by December 31<sup>st</sup> of each year for the duration of the 10-year ITP. The report will include a summary of the project activities accomplished during that year and a description of project impacts including location and take of species on site.*

### **Public Works**

Policy 1: Availability of Service Capacity.

New development shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas.

*Staff Response: The proposed project complies with this policy. The subject site is located within the Urban Reserve Line and Service Line for Los Osos. The lot was legally created by a recorded map, Tract 308 – Cabrillo Estates. It is one of the last developable remaining lots within the tract. Golden State Water Company issued a letter to the homeowner stating the address has established service at the premise since April 1, 2005. The project, as conditioned, will be required to provide evidence at the time of application for construction permits that Golden State Water Company is willing and able to serve the proposed development.*

### **Coastal Watersheds**

Policy 7: Siting of New Development

Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent. In all cases, siting of development and grading shall not occur within 100 feet of any environmentally sensitive habitat. In urban areas as defined by the Urban

Service Line, grading may encroach within the 100 foot setback when locating or siting a principally permitted development, if application of the 100 foot setback renders the parcel physically unusable for the principally permitted use.

*Staff Response: The proposed project complies with this policy. The subject site is mostly level to gently sloping with an average slope of 13 percent. The proposed single family residence meets all setbacks as required by the Estero Area Plan. The project is located within an unmapped TH/ESHA due to the presence of the MSS. An HCP was completed for the subject site and an incidental take permit was issued by the U.S. Fish and Wildlife Service for MSS found on the 0.46-acre lot. Development of the single family residence will disturb the habitat of the MSS, however, not allowing a principally permitted use in the land use category could potentially constitute a taking under the 5<sup>th</sup> Amendment U.S. Constitution. Therefore, allowing the siting of development on the subject site is justified because application of the 100 foot setback would render the parcel physically unusable for the principally permitted use.*

#### Policy 8: Timing of Construction and Grading

Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period.

*Staff Response: The proposed project complies with this policy. As conditioned, the applicant will be required to avoid the rainy season and establish erosion control measures prior to the start of the rainy season.*

#### COMMUNITY ADVISORY GROUP COMMENTS:

The Los Osos Community Advisory Group recommended approval of the proposed project.

#### AGENCY REVIEW:

Public Works – Comments and recommended conditions of approval are included in Exhibit B – Conditions of Approval, as applicable.

Building Department – Comments and recommended conditions of approval are included in Exhibit B – Conditions of Approval, as applicable.

Cal Fire – A Fire Safety Plan was completed on September 26, 2014. There were no significant concerns, problems or impacts related to the proposed project (Tony Gomes, September 26, 2014.)

Heal SLO – The proposed project is consistent with the vision established by the county in the Estero Area Plan and the mission of HEAL-SLO. It will have no foreseen impacts on public access to the coast, negligible impacts on traffic and limited, mitigated impacts on natural resources. However while this individual project may have limited impact, it should be considered within the context of potential future development. The county should consider the cumulative effects of development in this neighborhood as it approaches build-out capacity. *We do not foresee any immediate negative health impacts with this project (Health Communities Workgroup, July 9, 2014.)*

California Coastal Commission – The house is within the Urban Service Line, as opposed to inside the Urban Reserve Line. However, water supply issues are still paramount. Please ensure the County's staff report includes a discussion of water availability considering Los Osos

is LOS III and in a Stage 3 Water Emergency. A discussion of retrofits, and in the context of the larger Los Osos area, may also be appropriate (Daniel Robinson, July 3, 2014.)

*Staff Response: The project proposes to obtain its water needs from Golden State Water, a private water company. The water source is the Los Osos groundwater basin. The Board of Supervisors certified a Level of Severity III for the Basin in March 27, 2007.*

*On April 22, 2008, the Board of Supervisors approved two plumbing retrofit ordinances for the Los Osos area. The ordinances address sea water intrusion into the lower aquifer of the Basin and require both new and existing development to help address this problem by retrofitting older, non-conserving toilets and showerheads with those that are water efficient. The ordinances went into effect May 22, 2008.*

*The applicant was awarded a Title 19 Retrofit Certificate from the county for the proposed development. The applicant has at least 900 retrofit credits (sufficient to construct one single family residence) pursuant to Title 19 of the County Code. This certificate indicates the applicant retrofitted enough existing homes and/or businesses to save twice the amount of water the new residence would use.*

Los Osos Community Services District – The LOCSD is in charge of drainage in the Cabrillo Estates area. Our retention/percolation basin is just north of the proposed development (Lot 41). SWPPPs and best management practices should be followed (Margaret Falkner, June 19, 2014.)

Cabrillo Estates Tract 1342 – Architectural Review Committee – The preliminary architectural plans submitted to us have been reviewed and approved by the Cabrillo Estates Architectural Review Committee (Architectural Review Committee, June 10, 2014).

Fish and Wildlife Service – “Based on our evaluation of your application and HCP, we determine that all permit issuance criteria established pursuant to Fish and Wildlife Regulation 50 CFR 17.22 are met. Under the authority of Section 10(a)(1)(B) of the Endangered Species Act, you are authorized to take only those Morro Shoulderband snails found within the 0.46-acre permit area for a period of up to 10 years (Incidental Take Permit #TE70055A; Diane K. Noda, January 9, 2013.)

#### LEGAL LOT STATUS:

The lot was legally created by a recorded map at a time when that was a legal method of creating lots.

Staff report prepared by Megan Martin and reviewed by Ryan Hostetter and Steve McMasters.